

# EXHIBIT 2

FILED 1st JUDICIAL DISTRICT COURT  
Santa Fe County  
12/5/2025 4:48 PM  
KATHLEEN VIGIL CLERK OF THE COURT  
Tamara Snee

**STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT**

**STATE OF NEW MEXICO, EX REL.,  
RAÚL TORREZ, ATTORNEY GENERAL,**

**Plaintiff,**

**v.**

**NO. D-101-CV-2023-02838**

**META PLATFORMS, INC.; INSTAGRAM, LLC;  
META PAYMENTS, INC.; and META PLATFORMS  
TECHNOLOGIES, LLC,**

**Defendants.**

**AMENDED STIPULATED ORDER CONCERNING  
THE DEPOSITION OF JASON SATTIZAHN**

Plaintiff the State Attorney General of New Mexico (“New Mexico”); Defendants Meta Platforms, Inc.; Instagram, LLC; Meta Payments, Inc.; and Meta Platforms Technologies, LLC (“Meta”); and non-party plaintiffs in the Non-New Mexico Actions listed in Appendix A (the “Non-New Mexico Plaintiffs” and, together with New Mexico and Meta, the “Parties”) respectfully submit this Stipulation and Proposed Order.

WHEREAS the Parties previously agreed that the deposition of Jason Sattizahn scheduled for December 8, 2025, which has been noticed and/or cross-noticed by the various Parties to this Stipulation, will be an eight-hour deposition; that the New Mexico and Non-New Mexico Plaintiffs will collectively have four hours and will go first in the deposition; that Meta will have four hours; and that either side can reserve some of this time for rebuttal.

WHEREAS on November 21, 2025, this Court ruled that New Mexico would be permitted to question Jason Sattizahn at his deposition scheduled for December 8, 2025, regarding his previous testimony before the Senate, in which he made allegations regarding the role of Meta personnel and attorneys in the conduct of research. The New Mexico court further ordered that

Meta's participation in the deposition and its questioning of Sattizahn would not constitute waiver of any privilege and ruled that Meta's objections on the basis of privilege would be reserved until after the deposition. Ex. 1 at 23:7–14. Finally, the New Mexico court ordered that only counsel for Meta and New Mexico could attend the New Mexico portion of the Sattizahn deposition, unless other courts in related litigation issued orders imposing the same or similar conditions. *Id.* at 29:1–5, 16–20.

WHEREAS in ruling that New Mexico could question Sattizahn on the substance of his communications with Meta's in-house counsel, the Court stated its expectation that any privilege disputes following the deposition would be promptly raised in the New Mexico court. Ex. 1 at 30:15–31:2.

WHEREAS on December 1, 2025, the court in the Federal Action ruled from the bench that plaintiffs in the Federal Action and California State Action (as defined in Appendix A) could attend the New Mexico portion of Sattizahn's deposition, subject to the following conditions: (1) they would not ask any questions during the New Mexico portion of the deposition; (2) they would not ask any questions relating to alleged spoliation or communications with Meta's counsel, which would be handled exclusively by attorneys for New Mexico; (3) they would not take the position that Meta had waived privilege by virtue of allowing them to attend the New Mexico portion of the deposition; and (4) the attorney-client privilege is Meta's—not Sattizahn's—to waive. Meta maintains that Sattizahn's testimony before Congress did not waive Meta's privilege, and plaintiffs maintain that Meta's failure to take remedial steps constituted a waiver. The Parties reserve the right to challenge Meta's privilege objections at a later date in their respective jurisdictions. Counsel for plaintiffs in the Federal Action (including the State Attorneys General participating in the Federal Action), counsel for plaintiffs in the California State Action, and counsel for Sattizahn

confirmed on the record at the December 1 hearing that they would abide by these conditions.

WHEREAS the court in the Federal Action also agreed with this Court's stated expectation that any privilege disputes following the deposition would be promptly raised in this Court, suggesting, as a matter of judicial efficiency, that privilege disputes should be resolved by this Court in the first instance. While those rulings by this Court would not be binding in other jurisdictions, the court in the Federal Action reasoned that having the New Mexico court rule first would narrow the range of disputes that must be resolved in other jurisdictions.

WHEREAS Meta will not object to the remaining Non-New Mexico Plaintiffs' participation in the deposition of Sattizahn scheduled for December 8, 2025, provided they agree to abide by the aforementioned four conditions, and that all Plaintiffs and Sattizahn agree that the failure to make a contemporaneous objection/motion to strike during the deposition shall not be deemed to be a waiver of such objections or of the privilege.

THEREFORE the remaining Non-New Mexico Plaintiffs hereby agree to abide by the aforementioned four conditions, and all Plaintiffs and Sattizahn agree that the failure to make a contemporaneous objection/motion to strike during the deposition shall not be deemed to be a waiver of such objections or of the privilege.

THEREFORE, the Parties agree that any privilege disputes following the deposition will be promptly raised in this Court and resolved by this Court in the first instance. While those rulings by this Court will not be binding in the Non-New Mexico jurisdictions, the Parties agree that having this Court rule first may narrow the range of disputes that must be resolved in other jurisdictions.

THEREFORE, the Parties agree that deposition will proceed as follows:

1. New Mexico portion of deposition (sealed pending resolution of privilege objections

by New Mexico Court):

- a. New Mexico's questioning
- b. Meta's questioning
- c. Any rebuttal questioning by New Mexico
- d. Any rebuttal questioning by Meta

2. Remaining portion of deposition

- a. Plaintiffs' questioning
- b. Meta's questioning
- c. Any rebuttal questioning by Plaintiffs
- d. Any rebuttal questioning by Meta

**IT IS SO STIPULATED.**

/s/ Linda Singer

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Platforms Technologies, LLC*

**IT IS SO ORDERED.**



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HONORABLE BRYAN BIEDSCHEID  
CHIEF JUDGE, FIRST JUDICIAL DISTRICT

**Appendix A: List of Non-New Mexico Actions**

1. Federal Action: *In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, Case No. 4:22-md-03047-YGR(PHK) (Northern District of California).
2. California Action: *Social Media Cases*, No. JCCP 5255 (California Superior Court).
3. D.C. Action: *District of Columbia v. Meta Platforms, Inc. and Instagram, LLC*, Case No. 2023 CAB 006550 (D.C. Superior Court).<sup>1</sup>
4. Tennessee Action: *State of Tennessee, ex rel. Jonathan Skrmetti, Attorney General and Reporter v. Meta Platforms, Inc., and Instagram, LLC*, Case No. 23-1364-IV (Tennessee Chancery Court, Davidson County).
5. Arkansas Action: *State of Arkansas, ex rel. Tim Griffin, Attorney General v. Meta Platforms, Inc.; Facebook Holdings, LLC; Facebook Operations, LLC; Meta Payments Inc.; Facebook Technologies, LLC; Instagram, LLC; and Siculus, Inc.*, Case No. 57CV-23-47 (Arkansas Circuit Court, Polk County).
6. Massachusetts Action: *Commonwealth of Massachusetts v. Meta Platforms, Inc. and Instagram, LLC*, Case No. 2384CV02397 (Massachusetts Superior Court, Suffolk County).
7. Oklahoma Action: *State of Oklahoma, ex rel., Gentner Drummond, Attorney General of Oklahoma v. Meta Platforms, Inc. f/k/a Facebook, Inc.*, Case No. CJ-2023-180 (Oklahoma District Court).
8. Florida Action: *Office of the Attorney General, State of Florida, Department of Legal*

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<sup>1</sup> Noticed under the Deposition Coordination Agreement that includes the following cases: *Utah Div. of Consumer Prot. v. Meta Platforms, Inc.*, No. 230908060 (Utah Dist. Ct.); *State of Vermont v. Meta Platforms, Inc.*, No. 23-CV-04453 (Vt. Super. Ct.); and *State of New Hampshire v. Meta Platforms, Inc.*, No. 217-2023-CV-00594 (N.H. Super. Ct.).



*Affairs v. Meta Platforms, Inc., et al.*, Case No. 24 CA 3193 CAA XES (Florida Circuit Court).

# EXHIBIT 1

Recorded Hearing November 21, 2025

Recording Name:

[SFED-CrtRm237\_\_20251121-0912\_01dc5ac6f2ee4c00]

Transcript Prepared By:



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1 Judge: The court calls State of New Mexico versus Meta  
2 Platforms Inc. et al, case D-101-CV-2023-02838.

3  
4 [NOT TRANSCRIBED 00:00:10-00:56:50]

5  
6 Judge: I guess last we've got is what is labeled a dispute,  
7 uh, about Sattizahn, which I -- and by the way, I'll  
8 state my general understanding and you all can correct  
9 me if it's wildly off base or even a little bit off  
10 base. Um, and that is that Mr. Sattizahn has made  
11 public statements about things that, uh, the  
12 defendants contend are privileged, and so are not  
13 wanting the plaintiffs to be able to ask about those  
14 statements at his deposition. Is that largely right,  
15 or am I way off? And with this I'll first hear from -  
16 - from plaintiffs.

17 Singer: Uh, good morning, Your Honor, Linda Singer for the  
18 state of New Mexico. Thank you for the opportunity.  
19 Um, I do think that that is an accurate statement, and  
20 -- and perhaps also summarizes part of the problem  
21 from the State's perspective, is that we don't know  
22 what statements and documents Meta has objected to,  
23 which we think is fatal to them carrying the burden on  
24 this. And with that, I'm happy to start on our  
25 argument?



1 Judge: Certainly.

2 Singer: Okay. So at the core of the State's amended complaint  
3 in this case is that Meta failed to ensure that its  
4 products were safe, and that Meta knowingly failed to  
5 disclose to New Mexico consumers information that it  
6 had in its possession showing that its products are  
7 not safe for teens. Dr. Sattizahn has information  
8 that shows that Meta not only knew, for example, that  
9 its age verification and parental controls weren't  
10 effective in keeping kids safe, but that its attorneys  
11 directed researchers to avoid asking questions about  
12 what it called, quote, "sensitive topics" that the  
13 attorneys edited their research and directed them to  
14 delete data that demonstrated harms to children and  
15 teens. That is evidence that Meta engaged in the very  
16 fraud that the State has alleged, and used lawyers to  
17 help keep this evidence from coming to life. And we  
18 think that Meta's arguments with -- with regard to  
19 privilege in this deposition must fail for four  
20 reasons.

21 First, Meta has never identified the specific  
22 information that it asserts is privileged, except as  
23 information Meta will assert that the deposition is  
24 privileged. That does not respond to the direction  
25 Your Honor gave us at the last hearing that we work



1 out these issues in advance of the deposition, and it  
2 doesn't carry Meta's initial burden to show that it  
3 has a valid claim of privilege over the subjects of  
4 Dr. Sattizahn's testimony or to show what the  
5 boundaries of that privilege are. And I would direct  
6 Your Honor to Santa Fe Pacific Gold Corporation, New  
7 Mexico Court of Appeals 2007, which holds that the  
8 company had the burden to show that the privilege  
9 applied to each of the documents at issue. And I  
10 would note that it wouldn't have been hard for Meta to  
11 lay out its specific privilege objections here. Meta  
12 has Dr. Sattizahn's detailed declarations, which  
13 amount to about 60 pages collectively. Meta has all  
14 of the documents that the whistleblowers have  
15 produced, roughly 59 -- I'm sorry, exactly 59, by Dr.  
16 Sattizahn, and roughly the same number from other  
17 whistleblowers. The State asked Meta to identify the  
18 specific information it claims as privileged, but Meta  
19 has not provided it. And as a result the court is  
20 being asked to make a broad prophylactic order  
21 untethered to any specific statement or document, and  
22 that the State prepare for and take a deposition  
23 without knowing what is in bounds and out. That is  
24 inconsistent with New Mexico law that requires me to  
25 establish the privilege it asserts and prejudice --



1 prejudices the State's ability to take the deposition  
2 that Your Honor has ordered. Going forward as Meta  
3 requests on a practical level that at Dr. Sattizahn's  
4 deposition, Meta can direct the witness not to answer  
5 whenever it asserts a privilege claim almost certainly  
6 means that we're going to be back in front of this  
7 court arguing about whether the objections were  
8 proper, which again seems to be exactly what you asked  
9 us to avoid.

10 Further the fact that Dr. Sattizahn's  
11 declarations and testimony before Congress and all of  
12 the whistleblower documents are already known to the  
13 state and publicly further undermines the basis or  
14 need for a blanket gag order. To the extent there is  
15 or was a valid claim of privilege, the information  
16 that Dr. Sattizahn has is already known. And so we  
17 would suggest that the deposition can proceed subject  
18 to the protective order in this matter, and the court  
19 can evaluate Dr. Sattizahn's actual testimony about  
20 the context and substance of the issues, determine  
21 whether the information is actually privileged, and  
22 strike or exclude any information Your Honor  
23 determines is privileged based on a full record. To  
24 avoid any prejudice, the court can direct that Meta's  
25 participation in the deposition does not constitute



1 any further waiver of any claims of privilege. So  
2 that's the first argument. Your Honor, I will be  
3 briefer, I hope in the remaining,

4 The second reason we believe that Meta's  
5 arguments fail is that Meta has failed to show that  
6 the primary purpose of the communications at issue  
7 were legal rather than business -- I know that this is  
8 an argument that Ms. Forrester (ph) made a few minutes  
9 ago, and I won't dwell on it -- and that the  
10 communications constitute legal advice. While it is  
11 challenging to respond to the assertion of privilege  
12 in the abstract, if we assume Meta will object to any  
13 communication that mentions or involves lawyers, much  
14 of that information is factual. And as this court  
15 knows, attorney-client privilege doesn't protect  
16 facts. So the facts that lawyers had to approach --  
17 sorry, approve research, which is what the Washington  
18 Court considered in State versus American Tobacco,  
19 that any research on harm was considered sensitive and  
20 was to not be affirmatively investigated or were able  
21 to edit research before it was shared or just the  
22 facts. They're not legal opinions. And I would point  
23 the court to Johnson versus Hewlett Packard 2010  
24 Westlaw 41 -- 4510345, which we cite in the briefing,  
25 which indicates that testimony related, for instance,





1 to the process flow for proposing and reporting safety  
2 research, including the fact that attorneys were  
3 involved in that process, is not privileged. And I  
4 note as last point in this second argument, Meta has  
5 not shown that lawyers' involvement in research served  
6 a legal rather than a business purpose as Bandari  
7 requires. Mark Zuckerberg and Adam er testified  
8 publicly that Meta conducts research to improve its  
9 products. That's a business goal, not a legal one,  
10 and evidence that me failed to do so is key to the  
11 State's case.

12 So then the third argument, the information that  
13 Dr. Sattizahn, not a lawyer, has laid out in his  
14 declarations and is demonstrated by documents  
15 disclosed by he and the other whistleblowers fall  
16 within the crime fraud exception, which is expressly  
17 recognized in Rule 11503D, New Mexico annotative  
18 rules. The case in large part, as your Honor knows  
19 well at this point, rests on allegations that Meta  
20 engaged in unfair, deceptive and unconscionable  
21 practices by failing to disclose information to the  
22 public. The information from Dr. Sattizahn is  
23 evidence that Meta did just that using attorney-client  
24 privilege as one of the tools to prevent disclosure.  
25 And I want to take a moment to focus on one of the



documents. It's the document right before the one Ms. Forrester mentioned, C36, which is one of the publicly disclosed documents. It's titled Reality Labs UXR, which is, uh, integrity research. Guidance for researchers on sensitive and attorney-client privileged research. And it indicates sometimes research involving sensitive categories requires extra care and mitigations, which may include the legal POC -- or point of contact -- making a determination about whether a study should be cons- -- conducted under attorney-client privilege, whether other legal integrity and or outside counsel may need to review and approve the research, and or whether the submission details documents should be limited in any way. And the document goes on a la Tobacco, Your Honor, to lay out a plan for shielding that research as attorney-client privilege. I won't go through all of it, but it says that Meta will -- will engage outside counsel, will jointly instruct the researcher on the methodology and the study details. The vendor will conduct the study, and I'll quote here, "and deliver the findings to outside counsel and Meta legal point of contact. Outside counsel renders legal advice to Meta based on the study results. Most product safety, in parens, health and safety,



1 integrity studies are conducted under ACP -- attorney-  
2 client privilege -- working under the direction of  
3 outside counsel."

4 There is an internal Meta document I won't go  
5 into, given that we are on the public line, but it  
6 describes the sensitive topics or populations. Again,  
7 I won't detail them, although I do think they are  
8 important because they track the allegations of the  
9 State's complaint and involves lawyers in overseeing  
10 just that research. And it is again -- to use Ms.  
11 Forrester's phrase, there is no daylight between what  
12 this represents and what happened with the Center for  
13 Tobacco Research in deliberately sheltering  
14 information as attorney-client privilege to keep it  
15 from being known in litigation. According to  
16 whistleblower documents, Meta even had formal internal  
17 guidance dated March 2023 for researchers conducting  
18 sensitive attorney-client privilege research.

19 And this is cons- -- I'm sorry I'll skip over  
20 that factual matter because it's confidential, Your  
21 Honor. But again want to make the point that this is  
22 not sui generis, and I think the court can be guided  
23 by the tobacco litigation. In our briefing we cite  
24 State versus Philip Morris and State versus American  
25 tobacco, both cases in which courts found that the



1 company's failure to conduct appropriate research into  
2 the safety of its products and the failure to warn  
3 their products' consumers if the research supported  
4 negative conclusions fall within the crime fraud  
5 exception. Uh, I would note that the State first  
6 issued CIDs -- a CID to Meta in 2023. The conduct  
7 that we describe in the briefing and that Dr.  
8 Sattizahn more importantly describes in his testimony  
9 and declarations relate to evidence that was sheltered  
10 or altered after the state issued its CID. And as we  
11 lay that in a brief -- and again we don't make this  
12 allegation lightly and we make it based on evidence  
13 now publicly available and produced in this  
14 litigation, that that conduct is a fraud on the court,  
15 and it undermines the truth seeking role of litigation  
16 and the administration of justice. It doesn't the  
17 purpose of attorney-client privilege to ensure that  
18 lawyers can freely provide guidance to clients but  
19 misuses attorney-client privilege to allow lawyers to  
20 hide information for their clients.

21 And that takes me to the fourth and final point.  
22 I don't want to spend a lot of time on this because I  
23 think Your Honor need not reach it. But the state has  
24 laid out that Meta has waived any claim of privilege  
25 that may exist. And I do want to address Meta's



1 argument, because I think it misses the State's actual  
2 position. We don't contend that Dr. Sattizahn waived  
3 Meta's privilege. We contend that Meta waived Meta's  
4 privilege when even after documents were disclosed in  
5 this litigation and filed on the docket, Meta made no  
6 effort to assert a privilege or call them back. Now  
7 Meta said in its brief that it raised its privilege  
8 argument as soon as the state sought to depose Dr.  
9 Sattizahn. But the state produced the relevant  
10 documents in this litigation in September and then  
11 again in early October, making them available in this  
12 case whether or not Dr. Sattizahn was ever deposed.  
13 And Meta has clawed back dozens of documents in this  
14 litigation. It knows how to preserve its privilege,  
15 and it failed to do so here. And this is akin to US  
16 versus de la Jara, a Ninth Circuit case which we cite  
17 that held that even when the initial disclosure was  
18 involuntary, as here, privilege is preserved only if,  
19 quote, "the privilege holder has made efforts  
20 reasonably designed to protect and preserve the  
21 privilege." And the Ninth Circuit said it would deem  
22 privilege waived if the privilege holder fails to  
23 pursue all reasonable means of preserving the  
24 confidentiality of the privileged matter. In de la  
25 Jara, the privilege holder did nothing to recover the



1 letter or protect its confidentiality over six months,  
2 and that had the privilege holder attempted to recover  
3 the letter, appellant could have minimized the damage,  
4 but in failing to do so, it irretrievably breached  
5 privilege and waived it. For all of those reasons, we  
6 believe that Dr. Sattizahn should be permitted to  
7 testify on the documents and information contained in  
8 his declaration and in the whistleblower disclosures,  
9 and that Meta should not be allowed free reign without  
10 ever having identified the specific information about  
11 which asserts privilege to limit Dr. Sattizahn's  
12 testimony. And with that very long argument, I will  
13 yield to any questions the court may have for the  
14 State.

15 Judge: All right, at this point I don't have any for you.

16 Uh, Mr. Shultz, are you arguing?

17 Shultz: Yes, Your Honor. Thank you.

18 Judge: All right, whenever you're ready.

19 Shultz: Sure. So Dr. Sattizahn is a disgruntled former Meta  
20 employee who, when he was terminated, stole privileged  
21 documents from Meta, published them online, and then  
22 testified before Congress about legal advice he  
23 purportedly received from Meta's attorneys. The court  
24 has already ruled a moment ago that those  
25 communications with Meta's attorneys are privileged,



1 and in disclosing those materials, Mr. Sattizahn --  
2 Dr. Sattizahn, excuse me, flagrantly violated Meta's  
3 privilege. The State now seeks to compound the harm  
4 to Meta and induce Sattizahn to commit further  
5 violations of Meta's privilege by eliciting his  
6 deposition testimony about those privileged matters.  
7 It's not appropriate for the State to knowingly induce  
8 a witness to violate his former employer's privilege.  
9 And in fact, doing so would directly violate New  
10 Mexico rule of professional conduct 404A, which says  
11 that a lawyer shall not use methods of obtaining  
12 evidence that violate legal rights of a third party,  
13 here Meta, and ABA formal pending opinion 91359  
14 expressly addresses this specific situation, and says  
15 that when an attorney is contacting a former corporate  
16 employee, the attorney must be careful not to seek to  
17 induce the former employee to violate the privilege  
18 attaching to attorney-client communications. And that  
19 is exactly what the State seeks to do here. And so  
20 we're asking for remedy that's fairly modest and we  
21 believe reasonable, which is a protective order  
22 preventing the State from asking Mr. Sattizahn about  
23 privileged legal advice he received as a Meta  
24 employee, precluding Dr. Sattizahn from disclosing  
25 privileged legal advice and obligating Mr. Sattizahn



1 to adhere to instructions during his deposition from  
2 Meta's counsel not to answer questions on grounds of  
3 attorney client privilege. And I want to briefly just  
4 explain why we think these procedures are necessary in  
5 this case in a normal deposition, I think would be  
6 sufficient to say, okay, there's some privilege  
7 matters that they may go into on the other side, but  
8 we can have our attorneys instruct a witness not to  
9 answer the question. And if this were a deposition  
10 of, say, Ms. Zobel (ph) or Ms. Di (ph), um, those  
11 would be appropriate safeguards. But there are no  
12 safeguards in this deposition because we can't expect  
13 Dr. Sattizahn to adhere or follow the instructions of  
14 Meta's counsel not to disclose privileged information,  
15 which is why we need a protective order obligating Dr.  
16 Sattizahn to follow those instructions and precluding  
17 the State from, um, going into areas that it knows or  
18 should know are privileged.

19 Now in the state's brief on this issue, it raised  
20 three arguments. The first two I think have been  
21 disposed of by the court already. Those are business  
22 communications and crime fraud. Those are the same  
23 arguments that the State raised with respect to Ms.  
24 Zobel and Ms. Di's deposition. The third argument is  
25 new. Uh --





1 Judge: Well, Mr. Shultz, just to make sure you're clear, from  
2 -- from my perspective, there is a distinction between  
3 seeking to depose Meta counsel about legal advice  
4 that, you know, in particular, according to their, uh,  
5 affidavits and statements, they gave to these business  
6 entities -- I think there's a distinction between that  
7 potentially and someone who received advice and would  
8 be testifying about in that witness's non counsel's  
9 opinion, how it affected or what it was and how it  
10 affected his activities with the company. So I just  
11 want to let you know, so I'm not being strangely  
12 opaque up here. I -- I do see that as a difference.  
13 And so it is not necessarily true that everything I  
14 just ruled on finding a balance, tipping in favor of  
15 attorney-client privilege being protected would be  
16 true with respect to Dr. Sattizahn.

17 Shultz: I agree, your honor. It is -- it is different in the  
18 sense that Dr. Sattizahn is not an attorney, and not  
19 everything he did as a Meta employee is privileged,  
20 and that's not our position. We're not opposing a  
21 deposition of Dr. Sattizahn, full stop. We're simply  
22 seeking safeguards to protect the very information,  
23 the attorney-client communications that Dr. Sattizahn  
24 received from counsel like Ms. Zobel and Ms. Di, and  
25 on that issue there is no distinction. If Ms. Zobel



1 or Ms. Di gives Dr. Sattizahn legal advice, that legal  
2 advice is privileged as to the attorneys and it's  
3 privileged as Dr. Sattizahn. It doesn't matter  
4 legally if you received it or gave it, um, the  
5 privilege still applies. And the other distinction  
6 here, Your Honor, is that Dr. Sattizahn has already  
7 shown a willingness to disregard all -- all privilege  
8 rules out there and disclose information that is  
9 privileged, which is why we need appropriate safeguard  
10 at a deposition that we're requesting. Uh, and so  
11 again, we're not opposing a deposition of Dr.  
12 Sattizahn. We're simply asking for the court to  
13 implement safeguards and place appropriate limits to  
14 protect information that is privileged because it came  
15 from Meta's legal counsel.

16 Now the State's argument, um, that they focus on  
17 in their brief on this is waiver, uh, and that's an  
18 argument they raise on Dr. Sattizahn. It's the only  
19 one they don't raise with, uh, respect to Zobel and  
20 Di, but they do raise Sattizahn. So I want to focus  
21 on that, and we think there's been no waiver here.  
22 There are two New Mexico rules on point -- directly on  
23 point, neither of which the State squarely addresses.  
24 The first is New Mexico rule of evidence 11-511, which  
25 sets forth the relevant standard per waiver. And that



1 rule says a person possesses a privilege against  
2 disclosure of a confidential matter waives the  
3 privilege if the person voluntarily discloses or  
4 consents to disclosure of any significant part of the  
5 matter or communication. Now critically, that rule  
6 differs from federal law and federal common law and  
7 state common law. It is a specific, um, statutory  
8 based rule on waiver that was implemented by the New  
9 Mexico Supreme Court. And there is no evidence  
10 whatsoever that Meta either voluntarily disclosed the  
11 privileged material at issue here or consented to Dr.  
12 Sattizahn's disclosure of those materials, full stop.  
13 The State does not contend otherwise. The State  
14 instead asserts that Meta waive privilege over the  
15 improperly disclosed documents by failing to claw them  
16 back after Dr. Sattizahn published them online. That  
17 argument, I think, finds no support in either common  
18 sense or New Mexico law. Starting with common sense,  
19 Meta cannot legally compel a disgruntled former  
20 employee to unpublish privileged documents by issuing  
21 him a claw back notice, and the State doesn't explain  
22 what purpose serving such notice in this context would  
23 serve. And under New Mexico law, there is no case  
24 that we're aware of and none that State cites holding  
25 that failing to claw back a privileged document



1 published by a third party constitutes either  
2 voluntarily disclosing that privilege material or  
3 consenting to the disclosure of a privileged material  
4 under New Mexico Rule 11-511. And so the contrary  
5 courts applying that rule, uh, have generally required  
6 offensive or direct use of privileged materials before  
7 a party will be deemed to have waived its attorney-  
8 client privilege. That comes from the Lyons case, uh,  
9 from 2000 Court of Appeals.

10 Now there's a second New Mexico rule directly on  
11 point here, which is New Mexico Rule 11-512, which  
12 again the State does not address at all. And that  
13 rule says a disclosure of a privileged matter is not  
14 admissible against the holder of a privilege when the  
15 disclosure was made without the opportunity to claim  
16 the privilege. Now that rule is on top of the general  
17 waiver rule in 511, and it's directly on point here.  
18 We did not have an opportunity to claim privilege when  
19 Dr. Sattizahn published these privilege documents  
20 online. And that material therefore, under rule 512,  
21 is not admissible against Meta. Now I mentioned the  
22 state does not address the elements of 511 or 512. It  
23 instead relies primarily on a 1988 case called Hartman  
24 which applied a different common law waiver standard  
25 in assessing disclosure of privileged material by the



1 privileged holder. That case is not relevant here for  
2 at least three reasons. One, again, it applies a  
3 common law waiver standard that is not bound in Rule  
4 11-511. And after Hartman, the New Mexico Supreme  
5 Court clarified -- and this is a direct quote from,  
6 um, Allen v LeMaster, clarified that courts must avoid  
7 applying common law principles that are inconsistent  
8 with the language of our rules, meaning rule, uh, 11-  
9 511, and must not engage in the type of ad hoc  
10 judicial analysis engaged in by other courts that are  
11 free to apply the common law of waiver. In other  
12 words, Mexico courts should apply the waiver standard  
13 as it's set forth in Rule 11-511, not a common law  
14 test that is a free ranging reasonable standard that  
15 Ms. Singer quoted a moment ago from the Ninth Circuit.  
16 So that's one reason Hartman doesn't apply here.

17 Second is Hartman addresses disclosure by the  
18 privilege holder. Again, this is an improper  
19 disclosure by a third party, which is addressed by 11-  
20 512, which says that it's an admissible if we didn't  
21 have a chance to object to it. And third, Hartman  
22 addressed waiver as to the specific documents  
23 disclosed in that case. And that's -- that's an  
24 important point here to distinguish between this case  
25 and Hartman. What the State is asking for here is not



1 simply, um, a waiver order as to the documents  
2 disclosed by Dr. Sattizahn. They're asking for an  
3 order that Meta is waived privilege over the subject  
4 matter of those documents such that the State can  
5 further explore those materials through Sattizahn's  
6 deposition testimony. It's essentially a subject  
7 matter waiver the court asking for here -- the State's  
8 asking for here, and that's a very high bar to meet,  
9 and the courts I quoted a moment ago -- the Lyons case  
10 for example -- generally hold that subject matter  
11 waiver of the type asked for by the State here  
12 generally requires offensive or direct use by the  
13 privilege holder. There's no evidence of that here.

14 The last issue I want to just address briefly,  
15 Your Honor, is the -- the first part of Ms. Singer's  
16 argument, uh, which is sort of akin to a waiver that  
17 the State doesn't know what we're asserting privilege  
18 over here. Um, that is not our understanding of the  
19 conversations that happened between us and the State.  
20 Uh, we -- we've interpreted the State's position as a  
21 blanket, we get to ask whatever we want to Dr.  
22 Sattizahn about anything he made public, um,  
23 regardless of what the privilege is or whether it's  
24 privileged. Uh, there simply has not been a  
25 discussion about a document by document privilege, um,



1 claim because the State hasn't taken the position that  
2 some documents, um, may be off limits and some may be  
3 -- may be, uh, within limits. It hasn't, um,  
4 indicated a willingness to have that conversation  
5 about okay, we'll cabin our questions to this  
6 document, this document. The state's taken the  
7 position that everything is fair game for Dr.  
8 Sattizahn. If the state is willing to have that  
9 conversation, we're happy to have it and tell the  
10 state, okay, these documents are privileged  
11 specifically, and go document by document and say,  
12 okay, this -- this is research, it's not legal advice,  
13 this is legal advice, it's off limits. And we can  
14 have that conversation before the deposition. But  
15 regardless of that conversation, what we think needs  
16 to happen or should happen here is that there should  
17 be an order that prevents Dr. Sattizahn from breaching  
18 Meta privilege in a further way by willingly  
19 disclosing privileged material over the objections of  
20 Meta's counsel, and precluding the State from  
21 knowingly going into privileged materials, uh, in the  
22 deposition in violation of rule 404. Uh, and if  
23 nothing further, I'll pause for questions.

24 Judge: All right. Uh, I don't have any for you at this time.  
25 Um, all right. And let me just -- I will just state



1 at this point, I -- I understood from the notes that  
2 this was sort of a dispute, and then I noted as well  
3 that there was a motion filed by plaintiffs on the  
4 17th. So I'm not clear at this point if I'm dealing  
5 with a dispute where I hear from each side or if I'm  
6 ruling on a motion, but it may be in any event -- let  
7 me just -- Ms. Singer, I have a question for you. Um,  
8 and -- and then Mr. Shultz, I'll ask you to weigh in  
9 too if necessary. And that is, uh, is there a  
10 reasonable mechanism, uh, by which Dr. Sattizahn's --  
11 the deposition, transcript and any exhibits that are  
12 alleged to be privileged and the like, could be, uh,  
13 protected and confidential until the court has an  
14 opportunity to review objections made by -- by Meta  
15 and rule on those?

16 Singer: From the State's perspective, Your Honor? Absolutely.  
17 And I think that's one of the points I perhaps in-  
18 artfully tried to express in my argument, that --

19 Judge: No, and you -- you weren't in-artful at all. I guess  
20 I just wanted to make sure that I was stating it in a  
21 way that -- that I would be applying it, and that is --  
22 -- uh, and as well -- I understood for your argument as  
23 well, and I would agree, that Meta's participation in  
24 the deposition is not a waiver of privilege and is  
25 not, uh, prejudicing its -- its position with respect





1 to the claims. But I did want to make sure that it  
2 would be clear, both for the court and plaintiffs,  
3 that that would be the sort of protective order I'd be  
4 interested in, is making sure that it's protected  
5 until there's an opportunity to -- to rule.

6 Singer: Absolutely, Your Honor, and the State is willing to  
7 agree to whatever guardrails on that that provide  
8 confidence. But yes, that would be our understanding  
9 and our proposal, and I do think it has the additional  
10 virtue of giving the court a clear record on which to  
11 make those determinations and avoid a second  
12 deposition of Dr. Sattizahn after a witness is  
13 instructed not to answer questions, and the court is  
14 making those determinations without the information on  
15 what his answer would be.

16 Judge: Sure. And Mr. Shultz?

17 Shultz: So if I understand correctly, the -- the proposal on  
18 the -- on the table is essentially the State can go  
19 forward with its deposition of Dr. Sattizahn. If  
20 there are privileged objections that Dr. Sattizahn,  
21 uh, ignores instructions not to answer, the court can  
22 rule on those after the deposition, is that -- is that  
23 right?

24 Judge: Cor- -- correct. That he would be allowed -- so I  
25 guess where I'm going this the State would be allowed



1 to explore, as I think I've previously ruled, uh,  
2 questions related to all publicly disclosed or  
3 available documents. I understand that Meta's  
4 contending they shouldn't be, uh, and that they still  
5 need to be protected, but I would allow that  
6 deposition to go forward, allow questioning on all  
7 such documents. Meta's participation in the  
8 deposition would not be a waiver of its claims of  
9 privilege with respect to those -- those documents.  
10 And then the deposition would be essentially sealed or  
11 protected, you know, with similar or same effect, and  
12 it would remain so until the court can make a decision  
13 based on, I guess, post deposition assertions by Meta  
14 as to what was inappropriate. I mean I -- part of  
15 this is noting as well, I think it's 512 that deals  
16 with admissibility of, uh, such issues, but I'm still  
17 focused on discovery. Uh, and so that's another  
18 important distinction for the court. So, uh, again, I  
19 -- I want to make sure that what I'm proposing is  
20 something that is, I understand, objectionable but  
21 workable.

22 Shultz: Yes. And -- and good flag on 512. It does deal with  
23 admissibility. I think I see two -- two issues with  
24 that approach, Your honor. One is that the deposition  
25 is going to be, um, you know, coordinated with MDL



1 attorneys, and people in the deposition will not just  
2 be New Mexico and -- and -- and Meta. It'll be people  
3 outside, and so it's going to be hard to cabin the  
4 universe of people who see this information to just  
5 people the court might contemplate seeing it. The  
6 second, and I think more problematic issue from our  
7 perspective, Your Honor, is that it's going to be hard  
8 to cabin, um, the topics that Dr. Sattizahn testifies  
9 about. It'd be one thing if, um, you know, all that  
10 was really asked about was the words on the page, and  
11 all that Dr. Sattizahn testified about was the words  
12 on the page of documents that were publicly disclosed.  
13 But the nature of a deposition is to explore witness's  
14 testimony beyond the documents. And so, you know,  
15 there's -- there's really no telling what he'll say  
16 and what additional conversations he'll disclose. And  
17 so I think doing it this way, uh, from our protective  
18 risks, further privilege violations of not only the  
19 materials that were already in public but new alleged  
20 conversations that Dr. Sattizahn had that have not  
21 previously been disclosed before, which would  
22 obviously compound the violation, uh, there. So, you  
23 know, it's going to be hard to police that line, and  
24 it's going to be hard to police the line of where  
25 does, you know, the documents he published stop, and



1           where does, um, you know, everything else begin?

2   Judge:    Sure. And by the way, I don't disagree with what

3           you're saying. It just from a court's perspective,

4           the choice is place that line without knowledge of

5           what's going to be said in advance of the deposition,

6           or figure out the line based on what was said after

7           the deposition. And I -- I am obviously inclined

8           towards the latter. Um, let me ask, on the MDL piece,

9           because I -- it's a good point, and it's one that

10          maybe I'm helping facilitate, uh, if not create. Um,

11          and that is, and again, counsel, correct me if I'm

12          wrong. I -- I have understood that my rulings with

13          respect to coordinating depositions in this matter

14          with those being taken in the MDL was to respect

15          witness time, efficiency, expense, all those things.

16          Uh, and it has been in that vein that I, wherever

17          possible, have said coordinate, but I certainly have -

18          - well I should say, the other piece of my ruling is I

19          think have been -- that coordination is not at the

20          expense of this New Mexico litigation and the

21          application of New Mexico discovery standards. So I

22          guess where I'm going with all this is, if my rulings

23          to try to accomplish the former, the efficiency and

24          the respect for time and all sorts of things, is

25          creating problems with respect to applying New Mexico



1 specific, uh, rulings, well let me know because that  
2 could be a good reason to say, uh, all my other  
3 concerns are outweighed by the latter, and maybe this  
4 needs to be conducted in a separate forum. I don't  
5 know how feasible that is. I don't know -- again, I  
6 sort of feel like I have steered you all towards -- or  
7 whatever, forced you all towards -- whatever the right  
8 term is -- towards coordinating. And now I'm hearing  
9 judge, you're actually creating problems for New  
10 Mexico litigation by doing that, which has not been my  
11 goal. So let -- let me ask Ms. Singer, this was the  
12 person that wants to take said deposition, what are  
13 your thoughts with respect to that?

14 Singer: Yes, I think two issues -- and it is a -- a turn, Your  
15 honor, given the prior posture on this. One is I  
16 think Your Honor made clear at the last hearing, this  
17 deposition is proceeding as a New Mexico deposition,  
18 and for the witness's convenience we are prepared to  
19 coordinate just as Your Honor has directed in the  
20 past. And that seems fair. We've agreed upon a  
21 division of time that makes this a one-day deposition  
22 among the plaintiffs and with Meta all. That said, I  
23 think your Honor could set either one of two  
24 conditions in the interest of allowing us to go  
25 forward. One is that any parties that participate in



1 the New Mexico section of this deposition have to  
2 agree to abide by the same ceiling requirements and or  
3 treat the New Mexico deposition as a separate part of  
4 the deposition. I think either of those address the -  
5 - the concern that has been raised.

6 Judge: All right. Mr. Shultz?

7 Shultz: Yeah, I mean I think at a minimum, if this procedure  
8 was to go forward, we want to, you know, sequester  
9 that part of the deposition, and hold it entirely  
10 separately. But, you know, it strikes me as well  
11 that, um, you know, there might be a better way to do  
12 this, which is -- I thought Ms. Singer at the  
13 beginning of this call had a good idea of, you know,  
14 talking through the documents that Dr. Sattizahn  
15 published and clarifying what is and is not off  
16 limits. And I think if we can do that, we can go  
17 forward with the deposition of the non-privileged  
18 parts of Dr. Sattizahn's materials he published, and  
19 just leave it at that, but sanctioning a deposition  
20 that will conceivably have privileged disclosures in  
21 it, I've -- I've never seen that done in a case in my  
22 short career. Maybe -- maybe it has been and I'm not  
23 aware of it, but it strikes me as a -- a -- an  
24 unconventional remedy for something we can address in  
25 advance the deposition simply by talking to the State



1 and Meta about, you know, what is and is not off  
2 limits.

3 Judge: Right. Well again, so in past hearings, I think I've  
4 worked to address this admittedly imperfectly, but  
5 again, we've talked about drawing lines and when  
6 they're drawn, and I don't agree that, again, Dr.  
7 Sattizahn's testimony about his activities and how,  
8 uh, those activities worked, and maybe even worked in  
9 conjunction with, uh, you know, some legal input is  
10 automatically and always going to be privileged. And  
11 so I -- I don't think it's as clear cut as -- as all  
12 that. I -- I would certainly encourage you all to  
13 confer because if there are documents that I am  
14 clearly going to say, even though publicly available,  
15 which was the first line I drew, hey, this is never  
16 going to be admissible, clearly this is, uh, going to  
17 be protected. Well I would encourage you all to make  
18 your deposition productive and not spend a bunch of  
19 time on that. Uh, so conferral I think still has  
20 merit, and I think still could be useful. But, uh,  
21 again, because I don't know, in fact, that I am  
22 ordering a deposition that will, uh, necessarily go  
23 into privileged matters, I just know it's going to go  
24 into some matters that are alleged to be privileged by  
25 one side, but are publicly available, uh, I am going



1 to, again, allow that to go forward. I will say the  
2 New Mexico specific deposition that is allowing  
3 questions on these matters, uh, should be a separate  
4 part of the deposition, and just be New Mexico counsel  
5 and not be all of the MDL. Again, I -- by the way, I  
6 -- here, let me just say in advance, if I am told  
7 later on that a similar or identical ruling has been  
8 made in the MDL, so now there's really a distinction  
9 without a difference, this ruling would change, but  
10 understanding at the moment that I am making a  
11 decision that is unique to New Mexico and different  
12 from what exists in the MDL, I would say the  
13 deposition of Dr. Sattizahn for New Mexico purposes  
14 should be a separate and needs to be a separate  
15 proceeding. And by that I don't mean you need to  
16 change rooms, you need to do everything different. I  
17 mean other MDL counsel can't be sitting in there  
18 learning all these things that I'm going to rule on  
19 later and then seeing how they can use them in other  
20 litigation.

21 Shultz: Understood, Your Honor. And if we are going to do it  
22 this way, I think, you know, we would request that,  
23 um, you know, after the deposition, to the extent that  
24 there are things that, um, Dr. Sattizahn said that are  
25 privileged or disclosed privileged advice or





1 materials, um, you know, we'd be able to go to the  
2 court and get those, you know, stricken from the  
3 record entirely as privileged materials, and then  
4 have, um, the State, you know, basically destroy and  
5 then replace its transcript with a redacted version of  
6 the -- of the non-privileged sections of the  
7 deposition.

8 Judge: Sure. When -- when is this deposition, uh, scheduled?

9 Singer: December 8th, Your Honor.

10 Judge: All right,

11 Grayson: Your Honor, may I have one more thing on this issue?

12 This is --

13 Judge: Well just one moment, and that's only because -- it's  
14 not your input being objectionable, but I only have a  
15 certain amount of mental bandwidth sadly. Um, so I  
16 guess where I wanted to go with this is -- uh, again,  
17 I think consistent with the notion that there would be  
18 an order protecting and essentially sealing this  
19 deposition transcript until this court has made any  
20 requested rulings, uh, related to confidentiality,  
21 assuming they are immediately brought to the court's  
22 attention. Again, I'm not going to say sandbagging  
23 will be rewarded, uh, but if they're immediately  
24 brought to the court's attention, uh, I think it would  
25 make sense and it would be consistent with that ruling



1           that I rule on those before there's an unsealed  
2           version of the transcript released. So I think that  
3           is -- I don't understand how else it would work,  
4           frankly. The other piece that I want you to know for  
5           your timing in terms of when those matters are being  
6           raised and when that briefing is done, I currently  
7           have a jury trial scheduled the 9th to the 16th, and  
8           while I have endeavored to jump on to hearings in this  
9           matter in the midst of the last jury trial, this might  
10          be involved enough, I suspect, uh, that I would not be  
11          able to do that during the jury trial, I -- I am  
12          guessing. So, uh, if you decide that a reasonably  
13          competent, uh, judge would be able to do that, then  
14          you can certainly request it. But please be lenient  
15          with your, uh, assessment of what you think a  
16          reasonably competent judge could do. Um, with that, I  
17          would be looking to set this matter if needed as one  
18          of those December issues we talked about, uh, and I  
19          think was requested earlier on, uh, and not something  
20          that's piling up into January as you're trying to  
21          prepare for your -- for your trial. And so I -- I  
22          don't know exactly when we would do that. Part of it  
23          would also be to see how many objections there are,  
24          and, uh, what's -- what's involved, but I just want to  
25          let you know that that is precisely the sort of



1 proceeding that might, I think, need to be scheduled  
2 in December sometime after the 16th, when my jury  
3 trial is supposed to end.  
4

5 [END OF TRANSCRIPTION]  
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## TRANSCRIBER'S CERTIFICATE

I, Nicole Emert Topping, do hereby certify that I have listened to the recording of the foregoing; further that the foregoing transcript, Pages 1 through 32, was reduced to typewritten form from a digital recording of the proceedings held November 21<sup>st</sup>, 2025, in this matter; and that the foregoing is an accurate record of the proceedings as above transcribed in this matter on the date set forth.

DATED this 1st day of December, 2025.

  
\_\_\_\_\_  
Nicole Emert Topping

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